

CONFIDENTIAL

18-259

334

Director of Personnel

OGC Has Reviewed

27 December 1950

Law Division

25X1A

Civil Service Rights Under Contract Employment, [REDACTED]

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1. Various questions concerning the leave and retirement rights of [REDACTED] under his contract with this Agency were raised in a memorandum for the Director of Personnel from the Acting Chief, Employees Division, dated 6 September 1950, and recently referred to this office for comment. The referenced memorandum is attached hereto.

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2. It is understood that [REDACTED] held a permanent position in the classified civil service in the Interior Department up to the time he commenced work under contract with CIA. On leaving Interior he received a lump-sum payment for his accrued annual leave. Under the decisions of the Comptroller General, this was proper and no refund was necessary when he began work with CIA prior to the expiration of his leave period, since the CIA job was "temporary" within the meaning of the leave act and hence under a "different leave system."

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3. [REDACTED] has now left CIA and is understood to be employed at NSA. He can arrange with NSA for the transfer of sick leave standing to his credit at the time he left Interior.

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4. [REDACTED] contract with CIA was for one year, and hence his tenure was "temporary" and excluded from the Retirement Act. However, if he had retirement status in his employment with Interior, as seems the case, then he could claim that he continued under the Retirement Act, on the principle of "continuity of service," set out on page R5-16 of the Federal Personnel Manual, as follows:

"An employee with a retirement status who is transferred or appointed without break in continuity of service to a position otherwise excluded by Executive order continues under the system;"

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Such a claim presupposes that [REDACTED] held a "position" and was an "employee" of CIA, within the meaning of the Retirement Act. A careful review of the Agency's contract and relations with [REDACTED] convinces us that this argument has legal justification and that CIA should not object to retirement credit being given for the period [REDACTED] worked under the contract with this Agency.

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Encl:

Memo of 6 Sep 1950 on
above subject

cc: Chrono

✓ Subject

Legal Decision

Vital Documents

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